

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

| | | |
|-----------------------|---|-------------------------------------|
| MARK McLEAN SAUNDERS, |) | Civil No. 09cv708 L (WMc) |
| |) | |
| Petitioner, |) | ORDER ADOPTING REPORT AND |
| |) | RECOMMENDATION [doc. #33]; |
| v. |) | DENYING PETITION FOR WRIT OF |
| |) | HABEAS CORPUS; DENYING |
| V.M. ALMAGER, |) | CERTIFICATE OF APPEALABILITY |
| |) | and DIRECTING ENTRY OF |
| Respondent. |) | JUDGMENT |
| |) | |

Petitioner Mark McLean Saunders, a state prisoner, filed a petition for a writ of habeas corpus under 28 U.S.C. § 2254 and later filed an amended petition. The case was referred to United States Magistrate Judge William McCurine, Jr., for a report and recommendation ("Report") pursuant to 28 U.S.C. § 636(b)(1)(B) and Civil Local Rule 72.1(d). In the Report filed April 27, 2011, the magistrate judge recommended petition be denied. The parties were provided an opportunity to file objections to the Report. Objections to the Report were to be filed by May 18, 2011. To date, neither party has filed an objection or a request for an extension of time in which to object to the Report.


In reviewing a magistrate judge's report and recommendation, the district court "shall make a *de novo* determination of those portions of the report . . . to which objection is made," and "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1). Under this statute, "the district judge must

1 review the magistrate judge's findings and recommendations *de novo if objection is made, but*
2 *not otherwise.*" *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (*en banc*)
3 (emphasis in original); *see Schmidt v. Johnstone*, 263 F. Supp. 2d 1219, 1225-26 & n.5 (D. Ariz.
4 2003) (applying *Reyna-Tapia* to habeas review).

5 The Court has reviewed the Report. Finding no error and no objections having been filed,
6 **IT IS ORDERED** the Report and Recommendation is **ADOPTED** in its entirety and the
7 petition for writ of habeas corpus is **DENIED. IT IS FURTHER ORDERED** the issuance of a
8 certificate of appealability is **DENIED. IT IS FURTHER ORDERED** the Clerk of the Court is
9 **DIRECTED** to enter judgment in accordance with this Order.

10 **IT IS SO ORDERED.**

11 DATED: June 2, 2011

12 
13 M. James Lorenz
14 United States District Court Judge

15 COPY TO:

16 HON. WILLIAM McCURINE, JR.
17 UNITED STATES MAGISTRATE JUDGE

18 ALL PARTIES/COUNSEL
19
20
21
22
23
24
25
26
27
28